

other month to the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of all active aviation bilateral and multilateral negotiations and informal government-to-government consultations with United States aviation trade partners.”

#### § 40106. Emergency powers

(a) **DEVIATIONS FROM REGULATIONS.**—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) **SUSPENSION OF AUTHORITY.**—(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1103.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40106(a) .....	49 App.:1348(f). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §307(f), 72 Stat. 750. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40106(b) .....	49 App.:1514. 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1114; added Aug. 5, 1974, Pub. L. 93-366, §106, 88 Stat. 413. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words “armed forces” are substituted for “national defense forces” because of 10:101. The words “section 40103(b)(1) and (2) of this title” are substituted for “this subchapter” as being more precise. In clauses (1) and (2), the word “Administrator” in section 307(f) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 750) is retained on authority of 49:106(g). In clause (2), the words “fully” and “required” are omitted as surplus.

In subsection (b)(1), the words “government of a foreign country” are substituted for “foreign nation” for consistency in the revised title and with other titles of the Code. Before clause (A), the words “in a manner” and “in any way” are omitted as surplus. The word “authority” is substituted for “right” as being more precise and for consistency in the revised title.

In subsection (b)(2), the words “deemed to be” are omitted because a legal conclusion is being stated.

In subsection (b)(3), the words “by the President” are omitted as surplus.

#### AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

#### § 40107. Presidential transfers

(a) **GENERAL AUTHORITY.**—The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) **DURING WAR.**—If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1104.)